<u>REMARKS</u>

The present application was filed on November 26, 2003 with claims 1-20. Claims 8 and 9 were subsequently canceled. Claims 1-7 and 10-20 remain pending. Claims 1, 18 and 20 are the pending independent claims.

Claims 1-7 and 10-16 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Claims 1-7 and 9-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over allegedly admitted prior art in view of U.S. Patent No. 7,149,216 (hereinafter "Cheriton") and U.S. Patent Application Publication No. 2004/0078683 (hereinafter "Buia") and in further view of U.S. Patent No. 6,651,096 (hereinafter "Gai"). To reference the allegedly admitted prior art, the Examiner cites to the publication of the present application, U.S. Patent Application Publication No. 2005/0114655.

As indicated in their previous response, Applicants expressly reserve the right to apply the fee paid for the previous Notice of Appeal dated March 12, 2008 to any later appeal on the present application. See MPEP §§ 1207.04 and 1208.02; see also 35 U.S.C. §134(a) (emphasis added) ("An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having <u>once</u> paid the fee for such appeal.")

In this response, Applicants traverse the §101 and §103(a) rejections, and amend claim 1 without prejudice solely to clarify the claimed subject matter.

With regard to the §101 rejection, the Examiner apparently argues that method claim 1 is directed to software *per se*. See the Office Action at page 3, first paragraph. However, the claim clearly recites a transformative process in that it includes steps which transform a real-world article comprising an access control list into a multi-level tree representation of such a list. The claim thus satisfies the second prong of the machine-or-transformation test for process claims recently set forth by the Federal Circuit. See <u>In re Bilski</u>, 545 F.3d 943 (Fed. Cir. 2008). The §101 rejection is therefore respectfully traversed.

Notwithstanding the traversal, Applicants have amended independent claim 1 to clarify that the recited determining and processing steps are implemented in a processor and furthermore that at least a portion of the multi-level tree representation is stored under control of the processor in memory circuitry associated with the processor. Support for the amendment can be found, by way

of example, in the illustrative embodiment of FIG. 1 and in the description at page 7, lines 3-13, of the specification. It is believed that the claim as amended now also satisfies the first prong of the machine-or-transformation test of In re Bilski. Accordingly, the §101 rejection should be withdrawn.

With regard to the §103(a) rejection of independent claims 1, 18 and 20, Applicants traverse on the ground that the collective teachings of the allegedly admitted prior art, Cheriton, Buia and Gai fail to meet the limitations of these claims, and further that there is insufficient motivation to combine these references in the manner proposed by the Examiner.

In formulating the §103(a) rejection, the Examiner acknowledges that the collective teachings of the allegedly admitted prior art, Cheriton and Buia fail to teach or suggest the limitations of claim 1 which specify that in generating a tree representation of an access control list an updated node of the tree representation is compared with other nodes of a master list of nodes and if a duplicate node is found, the copied node is deleted and a pointer to the duplicate node is provided to an ancestor node that points to the given node, a subtree pointer of the ancestor node is updated to the duplicate node pointer, a reference count of the duplicate node now pointed to by the ancestor node is incremented and a reference count of the given node previously pointed to by the ancestor node is decremented. See the Office Action at page 8, first paragraph. However, the Examiner argues that these limitations are met by the Gai reference. Applicants respectfully disagree. The Examiner relies on FIGS. 7, 8, 9A and 13 of Gai as allegedly meeting the limitations in question. However, upon careful review of these portions of Gai, it is readily apparent that the limitations are not met.

For example, the Examiner argues that the quantity M referred to in step 922 in FIG. 9A of Gai corresponds to the recited reference count. However, claim 1 indicates that the reference count in question is associated with a given node in a tree representation of an access control list and indicates how many ancestor nodes in the tree representation point to that node. The quantity M is clearly not a reference count of this type. To the contrary, Gai expressly indicates that the quantity M is a count of access control lists that are to be merged together into a single access control list. See Gai at, for example, column 12, lines 28-41, and column 14, lines 8-23. Thus, the incrementing of quantity M in step 922 of FIG. 9A relied upon by the Examiner has nothing whatsoever to do with incrementing of reference counts associated with respective nodes of a tree representation of a given access control list.

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Similarly, the recited reference count is not met by step 712 of FIG. 7 in Gai where a determination is made as to whether or not a stack is empty. As noted above, the reference count in question is <u>associated with a particular node of a tree representation of an access control list</u> and indicates how many ancestor nodes <u>point to that node</u>. The stack in FIG. 7 of Gai does not disclose or suggest such a reference count. Instead, the Gai stack is a stack of Binary Decision Diagrams (BDDs) generated for respective Access Control Entry (ACE) statements, with each such ACE statement corresponding to a different row of an access control list. See Gai at column 7, lines 24-27, and column 10, lines 3-23 and 27-41. Thus, each stack entry comprises one BDD for one row of an access control list. The stack therefore does not provide any type of reference count for a particular node of a tree representation.
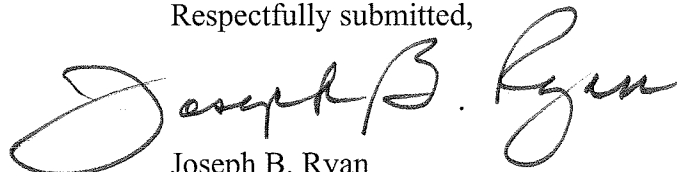
The portions of the Gai reference relied upon by the Examiner thus fail to teach or suggest particular limitations of the independent claims. It is therefore believed that the limitations of claims 1, 18 and 20 are not met by the collective teachings of the allegedly admitted prior art in view of Cheriton, Buia and Gai. Moreover, it is not readily apparent that one skilled in the art would be motivated to combine the teachings in the manner proposed by the Examiner, as certain of the techniques appear to be entirely incompatible with one another, leading to an unworkable combination.

Accordingly, the §103(a) rejection is believed to be improper and should be withdrawn.

Dependent claims 2-7, 10-17 and 19 are believed allowable for at least the reasons identified above with regard to their respective independent claims.

In view of the above, Applicants believe that the claims are in condition for allowance, and respectfully request withdrawal of the stated rejections.

Respectfully submitted,

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